

10/29/04

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE.

Appl. No.	:	10/817,213	Confirmation No.:	3864
Applicant	:	Nick Arini		
Filed	:	April 2, 2004		
TC/A.U.	:	2621		
Examiner	:	To be assigned		
Docket No.	:	PA0385		
Customer No.	:	22840		

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

October 27, 2004

PETITION UNDER 37 C.F.R. 1.47(A)

The undersigned states and declares as follows:

1. I am a registered patent attorney authorized to practice before the United States Patent and Trademark Office (Reg. No. 32,529).
2. I am employed by Amersham Biosciences Corp as Vice President, Intellectual Property, North America. As part of my duties in that position, I am responsible for coordinating the United States filing of patent applications owned by Amersham Biosciences Corp, now known as GE Healthcare, and its sister corporations, which includes the captioned application owned by Amersham Biosciences Niagara, Inc.
3. The captioned application was filed on April 2, 2004. The referenced patent application claims the benefit of patent application number 0307684.1 filed in

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Great Britain on April 2, 2003 and patent application number 0327651.6 filed in Great Britain on November 28, 2003.

4. On May 24, 2004, a "Notice to File Missing Parts of Nonprovisional Application filed Under 37 C.F.R. 1.53(b)" was mailed in connection with the captioned application for lack of a signed oath or declaration. A copy is attached hereto as Exhibit 1.
5. Each of the nine (9) inventors, namely Nick Arini, Alla Zaltsman, Ian Goodyer, Yuriy Alexandrov, Jurek Cybuch, Bohdan Soltys, Louis Dagenais, Liz Roquemore and Sam Murphy was employed by Amersham Biosciences Niagara, Inc. at the time the invention of the referenced application was made. A request was made of the Human Resources Department of Amersham Biosciences Niagara, Inc. to confirm the mailing address for each of the nine (9) inventors. A satisfactory reply had been received with regard to all but inventor Cybuch. Attached hereto as Exhibit 2 is a copy of an email exchange between Susan Wildman, Patent Formalities Officer of Amersham plc, and Anne Lancaster of the Human Resources Department of Amersham Biosciences Niagara, Inc., dated August 5, 2004 and August 9, 2004. Ms. Lancaster advised that numerous attempts to locate inventor Cybuch have been unsuccessful and provided the last known address listed in the records.
6. A combined Declaration and Power of Attorney having six (6) total pages, attached hereto as Exhibit 3, was prepared and mailed to the last known address of inventor Cybuch via First Class United States postal service and via Federal Express and hand delivered via Niagara Bailiff Services. A copy of the covering

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letter dated August 25, 2004, is attached hereto as Exhibit 4 showing that enclosed with the combined Declaration and Power of Attorney was an Assignment form and a complete copy of the application as filed with the United States Patent and Trademark Office on April 2, 2004.

7. The envelope mailed via First Class United States postal service on August 25, 2004, was not returned. The Federal Express envelope mailed August 25, 2004, was returned with the indication "RECIPIENT MOVED" followed by "no phone listing." A copy of the returned Federal Express envelope is attached hereto as Exhibit 5.
8. On September 10, 2004, an attempted service of the envelope at inventor Cybuch's last known address was made by Bailiff Jim Marlow of the City of Niagara Falls in the Regional Municipality of Niagara, Ontario, Canada. A copy of Bailiff Marlow's Affidavit of Attempted Service is attached hereto as Exhibit 6. The affidavit states that Bailiff Marlow was advised by the current owner of the property listed as inventor Cybuch's last known address that subsequent to inventor Cybuch's passing away, the owner, Ms. Kateryna Turczyn, sold the house and moved back to Europe. The purchase was final on July 31, 2004.
9. The remaining eight (8) inventors listed on the application, namely Nick Arini, Alla Zaltsman, Ian Goodyer, Yuriy Alexandrov, Bohdan Soltys, Louis Dagenais, Liz Roquemore and Sam Murphy, have duly signed and dated the combined Declaration and Power of Attorney as required. A copy of the signed documents is attached hereto as Exhibit 7.

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10. The due date for filing the Declaration in connection with the captioned application, with a four months extension of time, is November 24, 2004. It is respectfully requested that the attached combined Declaration and Power of Attorney executed by inventors Nick Arini, Alla Zaltsman, Ian Goodyer, Yuriy Alexandrov, Bohdan Soltys, Louis Dagenais, Liz Roquemore and Sam Murphy be accepted under 37 C.F.R. 1.47(a) on behalf of themselves and the nonsigning inventor, Jurek Cybuch. Such action is necessary to prevent the application from becoming abandoned, to preserve the rights of the parties, and to prevent irreparable damage.
11. In the event that I am able to subsequently locate an heir and obtain the signature of that person, a supplemental Declaration executed by the inventors will be filed.
12. Please charge Applicant's Deposit Account Number 502-590 in the amount of \$130.00 to cover the fee for this petition. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Applicant's Deposit Account Number 502-590.
13. A "Response to the Notice to File Missing Parts of Application Filing Date Granted (PTO-1533)(Large Entity)" is being simultaneously submitted attaching the combined Declaration and Power of Attorney executed and dated by inventors Nick Arini, Alla Zaltsman, Ian Goodyer, Yuriy Alexandrov, Bohdan Soltys, Louis Dagenais, Liz Roquemore and Sam Murphy. An authorization to charge the surcharge of \$130.00 is included with the response. Additionally included with the response is an authorization to charge the fee for a four months extension of

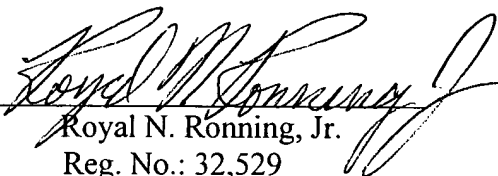
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time for responding of \$1,530.00 to Applicant's Deposit Account Number 502-590.

14. Please direct any outstanding issues directly to Applicant's representative at the contact number listed below.

Respectfully submitted,

AMERSHAM BIOSCIENCES CORP


By: 
Royal N. Ronning, Jr.
Reg. No.: 32,529
Attorney for Applicants

Amersham Biosciences Corp
800 Centennial Avenue
P. O. Box 1327
Piscataway, New Jersey 08855-1327

Tel: (732) 457-8423

Fax: (732) 457-8463

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on October 27, 2004.

Signature: 

Name: _____

Melissa Leck

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October 27, 2004

VERIFIED STATEMENT IN SUPPORT OF A PETITION UNDER 37 CFR 1.47(A)

Melissa Leck states and declares as follows:

1. I am the paralegal for the Intellectual Property Department of Amersham Biosciences Corp, reporting to Royal N. Ronning, Jr. As part of my duties, I am responsible for the formalities processing of all United States patent applications. I have been employed in this capacity since January of 2000.
2. My responsibilities include contacting inventors for execution of declarations in response to the issuance of a Notice to File Missing Parts. In this capacity, and with regard to the captioned application, I made an attempt to contact the unsigned inventor, Jurek Cybuch.

3. On May 24, 2004, a "Notice to File Missing Parts of Nonprovisional Application filed Under 37 C.F.R. 1.53(b)" was mailed in connection with the captioned application for lack of a signed oath or declaration. A copy is attached hereto as Exhibit 1.
4. In order to confirm the mailing addresses of the nine (9) inventors, I phoned Ms. Susan Wildman, Patent Formalities Officer, of our Amersham plc office in Amersham, Great Britain. Since the Patent Officer responsible for the family of which the captioned application is a part is based in Amersham, Ms. Wildman was responsible for providing as many of the formalities details as possible. She was able to confirm all but the address for inventor, Jurek Cybuch, and subsequently, she requested the assistance of the Human Resources Department of Amersham Biosciences Niagara, Inc., the former employer of inventor Cybuch, to obtain a current mailing address.
5. On August 9, 2004, I received an email from Ms. Wildman forwarded from the Human Resources Department at Amersham Biosciences Niagara, Inc., wherein the last known address of inventor Jurek Cybuch is provided. A copy of that email is attached hereto as Exhibit 2.
6. On August 25, 2004, I forwarded a combined Declaration and Power of Attorney having six (6) total pages, attached hereto as Exhibit 3, to the last known address of inventor Cybuch via First Class United States postal service and via Federal


Express. An identical package was also sent via interoffice mail to Ms. Brenda Hobbs, the former Administrative Assistant for the Legal Department of Amersham Biosciences Niagara, Inc., with the request that she arrange for the bailiff service of Ontario, Canada to serve the package on inventor Cybuch. A copy of the covering letter to inventor Cybuch dated August 25, 2004, is attached hereto as Exhibit 4 showing that enclosed with the combined Declaration and Power of Attorney was an Assignment form and a complete copy of the application as filed with the United States Patent and Trademark Office on April 2, 2004.

7. The envelope mailed via First Class United States postal service on August 25, 2004, was not returned. The Federal Express envelope mailed August 25, 2004, was returned with the indication "RECIPIENT MOVED" followed by "no phone listing." A copy of the returned Federal Express envelope is attached hereto as Exhibit 5. On September 10, 2004, an attempted service of the envelope at inventor Cybuch's last known address was made by Bailiff Jim Marlow of the City of Niagara Falls in the Regional Municipality of Niagara, Ontario, Canada. A copy of Bailiff Marlow's Affidavit of Attempted Service is attached hereto as Exhibit 6. The affidavit states that Bailiff Marlow was advised by the current owner of the property listed as inventor Cybuch's last known address that subsequent to inventor Cybuch's passing away, the owner, Ms. Kateryna Turczyn, sold the house and moved back to Europe. The purchase was final on July 31, 2004.

8. As I was responsible for preparing the copies to be enclosed with the August 25, 2004, transmittals to inventor Jurek Cybuch, I can attest that a copy of the entire application, including the specification, claims, abstract, and figures, was included in each envelope.
9. To date, no further investigation has been attempted into the whereabouts of an heir to the deceased inventor, Jurek Cybuch.

I declare, under penalty of perjury, that the above foregoing statements of fact are true and correct or, if made on the basis of my opinion, are believed to be true and correct.

Executed on this 27th day of October 2004

Signature: 
Melissa A. Leck,
Paralegal, Intellectual Property Department

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